



Bail Slip

The Appellant/Accused viz Ramalingam S/o.Kathemuthu, was released on bail as per the order dated 22.10.2010 made in MP(MD)No.1/2010 in Crl.A(MD)No.373 of 2010

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A(MD)No.373 of 2010

Ramalingam

... Appellant/Accused

Vs

State represented by
the Inspector of Police,
Adhirampattinam Police Station,
(Cr.No.46/2010)
Tanjore District.

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374 of Cr.P.C., to call for the records and set aside the conviction and sentence imposed by the learned Additional District Sessions Judge, Fast Track Court No.II, Pattukottai, Tanjore District in S.C.No.176 of 2010, dated 28.09.2010 and acquit the appellant.

For Appellant : Mr.V.Manikandan

For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

JUDGMENT

The appellant was convicted for the offence under Section 304(2) of IPC and sentenced to seven years rigorous imprisonment, vide Judgment dated 28.09.2010 in S.C.No.176 of 2010 on the file of the Additional District and Sessions Judge, Fast Track Court No.II, Pattukottai.

2. The prosecution case is that on 22.02.2010, at about 11.40 a.m., the appellant picked up quarrel with his son-in-law-Marimuthu and pushed him down and hit him on the back side of his head with stone. As a result, the said Marimuthu died on the spot. In this regard, P.W.1-Gunasekaran/brother of Marimuthu lodged Ex.P1-complaint before the Adhirampattinam Police Station. Ex.P13-FIR in Crime No.46 of 2010 was registered for the offence



under Section 302 of IPC. Investigation was taken up and after completion of the usual formalities, final report came to be laid against the appellant for the offence under Section 302 of IPC before the Judicial Magistrate, Pattukkottai. The case was committed to the Sessions Court and made over to Fast Track Court No.2, Pattukkottai for trial in S.C.No.176 of 2010. In response to the charge under Section 302 of IPC, the appellant pleaded not guilty and claimed to be tried. The prosecution examined 19 witnesses and marked Ex.P1 to Ex.P15 and M.O.1 to M.O.6. On side of the accused, Ex.D1 and Ex.D2 were marked. The learned trial Judge, after a detailed consideration of the evidence on record, acquitted the appellant of the offence under Section 302 of IPC. But found him guilty of the offence under Section 304(2) of IPC and sentenced him to seven years rigorous imprisonment. Challenging the same, this appeal came to be filed.

3. The learned counsel appearing for the appellant reiterated the contentions set out in the appeal memorandum and wanted this Court to reverse the impugned Judgment and acquit the appellant in toto.

4. Per contra, the learned Government Advocate (Crl.side) submitted that the impugned Judgment does not call for any interference.

5. I carefully considered the rial contentions and perused the evidence on record.

6. The occurrence had taken place on 22.02.2010, at about 11.40 a.m. As pointed out by the learned Government Advocate (Crl.side), FIR was lodged immediately on 02.00 p.m., on the same day. FIR reached the Court at 03.00 p.m., itself. P.W.1 is the eye witness. P.W.1 had clearly deposed that the relationship between his brother Marimuthu and his wife Maheswari was not cordial and that, Maheswari would often go to her parent's house. Few days prior to the occurrence, Maheswari had returned to her parent's house. Marimuthu had gone to the house of P.W.1 to take back his wife. It was then that the occurrence in question had taken place. The testimony of P.W.1 directly implicating the appellant has not at all been shaken in the cross examination. P.W.13 is the Doctor who conducted the postmortem examination. He had spoken about the injuries found on the body of the deceased Marimuthu. To a specific question from the learned trial Judge, the Doctor had clearly stated that with M.O.1-Stone, injuries found on the body of the deceased, can very well be caused. The learned trial Judge, after a detailed consideration of the evidence on record, had correctly come to the conclusion that the prosecution had established the involvement of the appellant beyond reasonable doubt. Even though the charge against the



appellant was one under Section 302 of IPC, the Court below rightly acquitted him on the said charge and found him guilty only for a lesser offence. The learned Judge has given a strong and cogent reasons for arriving at the aforesaid conclusion. Even after a careful re-appreciation of the evidence on record, I find no ground to take a different view. The conviction of the appellant for the offence under Section 304(2) of IPC is confirmed. But then, I am of the view that some leniency can be shown in the matter of sentence. The appellant is now aged about 70 years. The occurrence had taken place in his field. It is admitted even by P.W.1 that the relationship between the deceased and his wife Maheswari was not cordial. Therefore, the appellant as the father of Maheswari was certainly having a strong motive against the deceased. Therefore, unable to bear the stress and out of sudden provocation, he had committed crime.

7. Taking note of these mitigating aspects and age of the accused, interest of justice will be served by reducing the sentence of imprisonment from seven years rigorous imprisonment to one year rigorous imprisonment. With this modification in the matter of sentence, the criminal appeal is partly allowed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Additional District Sessions Judge,
Fast Track Court No.II, Pattukottai.
- 2.Do Through:
The Principal Sessions Judge,
Thanjore District
- 3.The Judicial Magistrate, Pattukkottai
- 4.The Superintendent, Central Prison
Trichy



5.The the Inspector of Police,
Adhirampattinam Police Station,
Tanjore District.

6.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai

copy to
The Section Officer,-2 copies
Criminal Section/Record
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.V.MANIKANDAN, Advocate (SR-83118[F] dated 22/08/2019
)

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22.08.2019

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